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RUEKJCS/JOINT STAFF WASHINGTON DC PRIORITY  
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C O N F I D E N T I A L TOKYO 003405

SIPDIS

STATE PM FOR AMBASSADOR MULL  
STATE PM/PPA FOR GLANCY  
STATE PM/ISO FOR FREDERICK  
STATE EEB/TRA FOR JOHN BYERLY AND STEPHEN MILLER

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TAGS: [MOPS](#) [PBTS](#) [PGOV](#) [PHSA](#) [PINR](#) [PREL](#) [PTER](#) [ELTN](#) [JA](#)  
SUBJECT: JAPAN'S ANTI-PIRACY EFFORTS: IN THE EARLY STAGES

REF: A. STATE 126055  
[1](#)B. 4 NOV 2008 EMBASSY TOKYO DAILY ACTIVITY REPORT  
[1](#)C. 11 DEC 2008 EMBASSY TOKYO DAILY ACTIVITY REPORT  
[1](#)D. STATE 129941

Classified By: AMBASSADOR J. THOMAS SCHIEFFER, REASONS 1.4(B) and (D).

[1](#)1. (C) Summary: Possible Japanese participation in international efforts to combat piracy in the Horn of Africa has received extensive media, government, and political attention in Japan in recent weeks. Current Japanese legislation allows the Prime Minister to dispatch the Japanese Maritime Self-Defense Forces to aid in the effort, but would limit their role to protecting Japanese vessels and citizens. To enable Japan to work as part of a multilateral effort, Japan is currently drafting new legislation that would authorize a more broad-based mission, although any new law will face a number of significant political hurdles, including defining the rules of engagement as well as determining which Japanese institution should have the lead security role. The desire to participate, however, appears to have bipartisan support which should help make the legislative process proceed more smoothly. End Summary.

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NEW LEGISLATION  
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[1](#)2. (C) In late November 2008, the Japanese government announced it was working on draft bill that, if passed, would enable the Japanese Maritime Self-Defense Forces (JMSDF) to dispatch to waters off of Somalia to defend shipping vessels from pirate attacks. Michio Harada, Director of the recently-established Ministry of Foreign Affairs (MOFA) Maritime Security Policy Division, emphasized to Embassy Tokyo that the purpose of this new bill would be to broaden the scope of JMSDF authorization (ref B). Under current law,

the Japanese Prime Minister can order the JMSDF to international waters to protect Japanese-flagged vessels and Japanese citizens on board foreign ships. Without a change to Japanese law, however, JMSDF would be barred from protecting non-Japanese vessels or citizens. Given that Japan's economy is heavily dependent on goods that transit Horn of Africa waters, Harada stressed that Japan "wants to do something now," although he acknowledged current legislation is very limiting.

13. (C) The Cabinet Secretariat Office of Ocean Policy, also recently established, will have the lead for drafting the new legislation, with input from MOFA, the Ministry of Defense (MOD), and the Ministry of Land, Infrastructure, and Transportation (MLIT). Media have reported the new bill will be submitted to the Diet in January 2009, although Japanese government contacts say "early spring" is more likely.

14. (C) Piracy problems near the Horn of Africa have received extensive media coverage in recent weeks. There is a growing sense among both government and Diet contacts that Japan "must do something" to help address the problem, particularly given several high profile piracy incidents involving Japan-bound vessels in the past twelve months. Harada stressed that Japan has been studying the piracy problem since early 2008 because of intel reporting from the International Maritime Bureau (IMB) Piracy Reporting Center that the problem "would only get worse."

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POLITICAL/LEGAL CHALLENGES  
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15. (C) Despite the broadly acknowledged need for Japan to participate in addressing the piracy problem, Japanese government contacts say they expect significant political hurdles. Harada said that while both the ruling Liberal Democratic Party (LDP) and opposition Democratic Party of Japan (DPJ) both support Japanese contribution to anti-piracy measures, the parties are divided over how to contribute as well as whether the JMSDF or the Japan Coast Guard (JCG) would be the most appropriate force to dispatch.

16. (C) Harada said there is growing, bipartisan sentiment that Japan has an "obligation" to protect both its own ships as well as ships from countries whose navies have previously offered security to Japanese vessels. Other Japanese government contacts have said it is "embarrassing" for Japan to be receiving security, but not participate in the multilateral effort to stem the flood of pirates. Japanese businesses, through the Japanese business federation Keidanren, are also demanding that the government and politicians address the issue.

17. (C) Government officials say one of the major challenges for the legislation will be defining the JMSDF's (or JCG's) rules of engagement. In particular, with longstanding restrictions on the Japanese military's use of force except in the defense of Japan, it remains unclear how extensively Japan will be able to participate. Harada acknowledged that obtaining authorization for the JMSDF to use force in defense of third country ships and nationals would be difficult, but said the fact that pirates can be considered stateless should help mitigate the issue somewhat.

18. (C) MOFA National Security Policy Division Deputy Director Takatoshi Mori noted that the UN Convention on the Law of the Sea (UNCLOS) makes high seas piracy a crime of universal jurisdiction and said that this could also help in the creation of a law with broad flexibility. Mori hoped that if the law passes and enables the JMSDF to engage flexibly, that this would provide a legal basis for future international operations. He added, though, that a significant issue for both Japan and the international community to resolve is how to handle any pirates that are arrested on the high seas.

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WHO AND HOW? JCG vs. JMSDF  
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¶9. (C) Under current legislation, the JCG has anti-piracy responsibility in Japan's territorial waters and Exclusive Economic Zone (EEZ). In addition, the JCG trains regularly with and offers capacity building services to coast guards from countries in states that border the pirate-infested Straits of Malacca. JCG also hosts training seminars in Japan for countries affected by piracy. The Japanese government has also recently dispatched three JCG officers to Oman and Yemen to train local coast guards and to study the Somali piracy problem in greater detail (ref C). Commander Kuniyuki Nagaie (protect), Deputy Director of the JCG's Security Intelligence Division (and one of the officers on the trip) told Embassy Tokyo that the JCG would like to be involved, has the experience, and that this trip is one where they expect to learn more about exactly where the JCG could add the most value.

¶10. (C) While the JCG has the knowledge and expertise to make them an asset in the Horn of Africa, some Embassy Tokyo contacts within the JCG say they do not have the capacity to lead a mission so far from Japan. The JCG is ready to help, they say, but stress the JMSDF is better suited (having larger ships and being more heavily armed) to participate in a multilateral anti-piracy mission, although MOFA contacts speculate that this may be JCG's way of seeking funding for a higher level of operational capability. JCG International Affairs Section Chief Keiji Takechi said, however, that the JCG could, in theory, embark on a JMSDF vessel and provide the law enforcement expertise that would be needed in any capture of pirates. Takechi said that the JCG and JMSDF are currently studying ways to make this, or similar, scenarios work.

¶11. (C) For their part, JMSDF contacts say they are eager to go and have the right surface and air assets should they be ordered to do so. MOFA's Mori confided, however, that the JMSDF would be reluctant to go into theater if the authorizing legislation severely limited their operational flexibility. MOD contacts emphasize to Embassy Tokyo that, absent new legislation, they could still contribute beyond just protection of Japanese ships. One option that senior MOD officials are considering is dispatching P-3Cs for shipping lane surveillance, something that could be accomplished without a new law.

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COMMENT  
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¶12. (C) Feedback from Japanese interlocutors on the Horn of Africa piracy problem has been consistent. There is a general sentiment that vessels bound for Japan have been getting a security "free ride" and that this is not an acceptable long term solution. The political and legal obstacles to passing a broad-based law are significant, although perhaps somewhat less if bipartisan support proves to be fact rather than fiction. Despite this, a general election must occur no later than September 2009 (and probably will happen much sooner than that), potentially slowing the passage of a new law. The move to draft new legislation has been a home-grown effort, with no prompting or pushing from non-Japanese sources that we are aware of. Japan sees the potential for a clear threat to its economy and appears, for now at least, ready to engage. End Comment.  
SCHIEFFER